

1 Jeffrey L. Hartman, Esq., #1607
2 **HARTMAN & HARTMAN**
3 510 West Plumb Lane, Suite B
4 Reno, Nevada 89509
5 Telephone: (775) 324-2800
6 Telecopier: (775) 324-1818
7 notices@bankruptcyreno.com

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5 Attorney for Jeri Coppa-Knudson, Trustee

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8 **UNITED STATES BANKRUPTCY COURT**
9
10 **DISTRICT OF NEVADA**

11 IN RE:
12 ANTHONY THOMAS and
13 WENDI THOMAS,
14 Debtors.

CASE NO. BK-N-14-50333-BTB
CHAPTER 7

**DECLARATION OF MAUREEN
HARRINGTON IN SUPPORT OF
MOTION FOR ORDER APPROVING
COMPROMISE AND SETTLEMENT
AGREEMENT**

15 **Hearing Date: February 25, 2015**
16 **Hearing Time: 10:00 a.m.**

17 I, Maureen A. Harrington, declare as follows:

18 1. I am an attorney licensed to practice in the State of California, and am a partner in
19 the firm of Greenfield Draa & Harrington LLP, formerly known as Trepel McGrane
20 Greenfield LLP (“Greenfield Firm”). The following facts are within my personal
21 knowledge unless specified as based upon my information and belief and as to those matters
22 I believe them to be true.

23 2. Greenfield Firm entered into a written “Master Agreement for Year 2010 Legal
24 Services” with debtor Tony Thomas on or about August 26, 2010 (the “Fee Agreement”). A
25 true and correct copy of the Fee Agreement is attached hereto as **Exhibit 1**. The Fee
26 Agreement provided, *inter alia*, for Mr. Thomas “to deposit an advance for fees and costs
27 with Attorneys in the amount of \$150,000 upon execution of the Agreement.... Client shall
28 replenish the funds held in Attorneys’ client trust account as requested by Attorneys.” (Fee
Agreement at ¶7.) The Fee Agreement was signed by Mr. Thomas, and approved as to form

1 and content by Mr. Thomas' independent counsel.

2 3. Greenfield Firm performed services for Mr. Thomas, including acting as counsel
 3 of record for him in the matter of *Kenmark Ventures v. Thomas*, Santa Clara Superior Court
 4 case number 1-08-CV-130677 (the "Kenmark Action"). When the advance fee deposit was
 5 exhausted, Greenfield Firm demanded that it be replenished in accordance with the terms of
 6 the Fee Agreement. Mr. Thomas refused.

7 4. Greenfield Firm filed a motion to be relieved as counsel for Mr. Thomas in the
 8 Kenmark Action, which was granted on May 4, 2011, terminating the attorney-client
 9 relationship based on nonpayment of fees and a breakdown in the relationship. I am
 10 informed and believe and thereupon allege that Mr. Thomas obtained replacement counsel
 11 and ultimately settled the Kenmark Action.

12 5. Greenfield Firm asserts that it is owed the sum of \$39,838.93 from Mr. Thomas,
 13 as set forth in the invoices attached as **Exhibit 2**, which sum has not been paid by Mr.
 14 Thomas.

15 6. On February 28, 2012, Thomas filed a "Complaint, etc." in Santa Clara Superior
 16 Court against Defendants Greenfield Firm, William McGrane and Anthony Trepel, a true
 17 and correct copy of which is attached hereto as **Exhibit 3** (the "Thomas Action"). Mr.
 18 McGrane and Mr. Trepel were formerly partners in the Greenfield Firm.

19 7. The Thomas Action alleges that, contrary to the terms of the Fee Agreement, the
 20 Greenfield Firm agreed that charges would not exceed \$150,000 and there was no obligation
 21 to refresh the advance fee deposit, that the defendants breached their fiduciary duties to
 22 Thomas and that defendants committed fraud in seeking more than \$150,000 in fees.

23 8. The Fee Agreement provides that a prevailing party in any action to recover
 24 under that agreement will be entitled to reasonable attorneys' fees. Greenfield Firm, Mr.
 25 McGrane and Mr. Trepel have all incurred attorneys' fees associated with the Thomas
 26 Action.

27 9. The Thomas Action was stayed and the matter compelled to proceed in arbitration
 28 by Order entered on July 3, 2013, at the request of Mr. McGrane.

1 10. On March 4, 2014, Mr. Thomas filed a voluntary petition for chapter 11
 2 bankruptcy protection, *In re Anthony & Wendi Thomas*, Nevada Bankruptcy Court Case No.
 3 BK-N-14-50333-BTB (the “Thomas Bankruptcy”). Mr. Thomas failed to schedule or
 4 disclose the Thomas Action as an asset of his bankruptcy estate, nor did he list Greenfield
 5 Firm as one of his creditors.

6 11. On April 28, 2014 McGrane filed an arbitration proceeding before the American
 7 Arbitration Association seeking a declaration that he engaged in no wrongdoing with respect
 8 to Thomas (the “AAA Proceeding”). I am informed and believe that the AAA Proceeding is
 9 still pending; that Mr. Thomas has filed a counterclaim which purports to add Greenfield
 10 Firm and Mr. Trepel to that proceeding; and the basis for the counterclaim is the claims set
 11 forth in the Thomas Action, all of which took place prior to the Thomas Bankruptcy being
 12 filed.

13 12. The Bankruptcy Court entered its “Order Approving Stipulation For Comfort
 14 Order That Automatic Stay Does Not Apply To Litigation Filed By Debtor Anthony
 15 Thomas Pre-Petition [California State Court Litigation] and Order Granting Motion For
 16 Relief From Stay To Proceed With Litigation Filed By Debtor Anthony Thomas Pre-Petition
 17 [California State Court Litigation] And With Arbitration Ordered In State Court Litigation”
 18 lifting the stay to permit the parties to proceed with the Thomas Action and AAA
 19 Proceeding, copies of which are attached hereto as **Exhibit 4**.

20 13. On August 29, 2014, the Thomas Bankruptcy was converted from chapter 11 to
 21 chapter 7, and on September 11, 2014, the Trustee was appointed as the Chapter 7 Trustee in
 22 the Thomas Bankruptcy. A true and correct copy of her “Appointment of Interim Trustee
 23 and Trustee and Designation of Required Bond” filed in the Thomas Bankruptcy is attached
 24 as **Exhibit 5**.

25 14. Notwithstanding the appointment of Ms. Coppa-Knudson, Thomas has filed and
 26 is seeking to prosecute claims against Greenfield Firm, McGrane and Trepel in the AAA
 27 Proceeding based upon the Complaint in the Thomas Action. I am informed and believe
 28 that AAA is not restraining Mr. Thomas from proceeding with these actions.

1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct and that this declaration was executed on January 7,
3 2015, at San Jose, California.

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5 /S/ Maureen Harrington
6 Maureen Harrington

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